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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,702	10/24/2003	Dwight H. Graham	98-0385	2283
34356	7590	08/26/2005	EXAMINER	
ASHKAN NAJAFI, P.A. 6817 SOUTHPOINT PARKWAY SUITE 2301 JACKSONVILLE, FL 32216			NGUYEN, TUAN N	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,702

Applicant(s)

GRAHAM, DWIGHT H.

Examiner

Tuan N. Nguyen

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5 and 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/24/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species II: Figs. 8-11 in the reply filed on 6/13/05 is acknowledged. Accordingly, claims 3 and 6-8 are withdrawn from further consideration.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "a first segment" in line 2 of claim 10 and line 25 of claim 19, "a second segment" in line 3 of claim 10 and line 26 of claim 19, and "flexible tab member" in line 11 of claim 16 and line 11 of claim 20.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-13, 16, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 10 and 19, it is unclear as to what structures are being referred to by the limitations "a first segment" and "a second segment" in lines 2-3 of claim 10 and lines 25-26 of claim 19.

With respect to claims 16 and 20, it is unclear as to what structure is being referred to by the limitation "at least one flexible tab member" in line 11 of claim 16 and line 11 of claim 20.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bottino.

In regard to claim 1, Bottino discloses a soap holding device (see figures) comprising a flexible bag (4) for holding soap therein, the bag inherently has an opening therein for filling a soluble cleaning agent (see col. 2, lines 12-14), and a plurality of apertures (5) therethrough; and a flexible outer structure made of permeable plastic material having a cellular porous structure, which is inherently a sponge material having an opening therein (see col. 2, lines 6-9), the bag being inserted into the opening of the outer sponge structure such that it generally envelops the bag. In regard to claim 2, the flexible outer sponge structure having a convex interior wall and is capable of accommodating at least one bar of soap.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 5 and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank in view of Sullivan, Nichols, Lowery, Lemberger, and Mezey.

Frank discloses a soap holding device comprising a flexible bag (see Figs. 6-8) having a first and second compartments, the bag inherently has a plurality of apertures therethrough since it is water pervious, the first compartment (30) has an opening for holding soap therein, the second compartment has an opening therein for receiving a user hand as an extension for washing; the openings of the first and second compartment have a reinforced portion around an outer perimeter thereof; and at least one snap fastener (closure means 16') having first and second snap portions as claimed.

Although the device of the Frank reference does not include a flexible outer sponge as claimed, attention is directed to the Sullivan reference which discloses an analogous soap holding device having an inner bag (18) for holding soap and being envelops by a flexible outer sponge (12) so as to control release of the soap composition from the device (see col. 5, lines 15-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Frank device, an outer sponge layer as, for example, taught by Sullivan in order to control release of the soap composition from the device.

Although the device of the Frank reference does not include a paddle member having a head portion for inserting into the second compartment and a handle portion

Art Unit: 3751

as claimed, attention is directed to the Nichols, Lowery, or Lemberger references, each of which discloses an analogous soap holding device which further includes a paddle member having a head portion for inserting into the second compartment and a handle portion as claimed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Frank device, a paddle member as, for example, taught by Nichols, Lowery, or Lemberger in order to allow the device to reach the back of a user, which is a hard to reach area.

Although the device of the Frank reference does not include a flexible outer sponge with an indicia or a raised portion position on an exterior surface as claimed, attention is directed to the Mezey reference, which discloses an analogous soap holding device which further includes an outer sponge layer that could have different shapes, raised portion, or indicia position on an exterior surface thereof to provide an attractive applicator for children. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ, on the Frank device, an outer sponge layer as, for example, taught by Mezey in order to provide an attractive applicator for children.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mizell, Avallone, Colgan, and Henry disclose other soap holding devices.


Art Unit: 3751

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN


Tuan Nguyen
Primary Examiner
Art Unit 3751
8/22/05